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30-10-25. Real and personal property fee. (a) A real and personal property fee shall be developed by the agency in lieu of an allowable cost for ownership or lease expense, or both. The real and personal property fee shall equal the sum of the property allowance determined under subsection (b) and the property value factor determined under subsection (c) of this regulation. The fee shall be facility-specific and shall not change as a result of change of ownership or lease by providers on or after July 18, 1984. An inflation factor may be applied to the fee on an annual basis.

(b) (1) The property allowance shall include an appropriate component for the following:

- (A) Rent or lease expense;
- (B) interest expense on a real estate mortgage;
- (C) amortization of leasehold improvements; and
- (D) depreciation on buildings and equipment, calculated pursuant to subsection (d) below.

(2) The property allowance shall be subject to a program maximum. Percentile limitations shall be established, based on an array of the costs on file with the agency as of July 18, 1984.

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(3) The property allowance for a real and personal property fee for a newly constructed nursing facility or a nursing facility that enters the Kansas medical assistance program and has not had a fee established previously shall subject to the overall property cost center limit. If the combination of the plant operating costs and property allowance costs exceeds the property cost center limit in effect at the time the real and personal property fee is being established, the property allowance shall be prorated to the overall property cost center limit based on the percentage of the property allowance cost to the total of the plant operating and property allowance costs.

(c) The property value factor shall be computed as follows.

(1) The sum of the components under paragraph (b)(1) above shall be determined by the agency for each facility, based on costs on file with the agency as of July 18, 1984. These sums shall be placed in an array, and percentile groupings shall be developed from that array.

(2) The average property allowance shall be determined by the agency for each percentile grouping under paragraph (c)(1) above.

(3) The average property allowance for each percentile grouping shall be multiplied by a percentage as established by the secretary.

(d) (1) The depreciation component of the property allowance shall meet these criteria:

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(A) be identifiable and recorded in the provider's accounting records;

(B) be based on the historical cost of the asset as established in this regulation; and

(C) be prorated over the estimated useful life of the asset using the straight-line method.

(2) (A) Appropriate recording of depreciation shall include the following:

(i) Identification of the depreciable assets in use;

(ii) the assets' historical costs;

(iii) the method of depreciation;

(iv) the assets' estimated useful life; and

(v) the assets' accumulated depreciation.

(B) Each provider shall report gains and losses on the sale of depreciable personal property on the cost report at the time of the sale. The provider shall record trading of depreciable property in accordance with the income tax method of accounting for the basis of property acquired. Under the income tax method, gains and losses arising from the trading of assets shall not be recognized in the year of trade, but shall be used to adjust the basis of the newly acquired property.

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(3) For depreciation purposes, the cost basis for a facility acquired after July 17, 1984 shall be the lesser of the acquisition cost to the holder of record on that date, or the purchase price of the asset. The cost basis shall not include costs attributable to the negotiation or final purchase of the facility, including legal fees, accounting fees, travel costs, and the cost of feasibility studies.

(e) (1) Any provider may request that the agency re-base the property fee if the provider meets the following capital expenditure thresholds:

(A) \$25,000.00 for facilities with 50 or fewer beds; or

(B) \$50,000.00 for facilities with 51 or more beds.

(2) The per diem based on the interest or depreciation, amortization, or both, from the capital expenditures, as reported in the ownership cost center of the cost report, shall be added to the property allowance per diem originally established. Interest expense reported in the administrative cost center of the cost report shall not be included in the request for a re-base of the property fee. Interest on loans for real and personal property that is included in a re-base shall be reported with mortgage interest in the ownership cost center.

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(3) The resident days used in the denominator of the property allowance calculation shall be based on the total resident days used to compute the rate that is paid at the time the request is made to re-base the property fee. The resident days shall be subject to the 85 percent minimum occupancy requirement, including any new beds documented in the request for a re-base.

(4) The revised property allowance shall be used to determine the property value factor. The revised property value factor shall be based on the existing arrays. The skilled nursing facility array shall be used for medicare skilled nursing facilities. The nursing facility array shall be used for all other facilities.

(5) Effective dates for re-based property fees.

(A) If the number of beds of an existing nursing facility is increased by the construction of a new addition to the existing facility, the property fee established through the re-base shall be effective according to either of the following schedules:

(i) On the first day of the month in which the new beds were certified if the certification date was on or before the 15th of the month; or

(ii) on the first day of the month following the month in which the beds were certified if the certification date is on or after the 16th of the month.

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(B) If the capital expenditure that is the basis for the re-base request is not related to an increased number of beds, the effective date of the property fee established through the re-base shall be effective according to either of the following schedules:

(i) On the first day of the month in which the complete documentation is received, if the request is received on or before the 15th of the month; or

(ii) on the first day of the month following the month in which the complete documentation is received, if the request is received on or after the 16th of the month.

(C) Complete documentation shall include the following:

(i) The depreciation/amortization schedule reflecting the expense;

(ii) the loan agreement;

(iii) the amortization schedule for interest;

(iv) invoices;

(v) contractor fees; and

(vi) proof of other costs associated with the capital expenditure, including the construction-in-progress subsidiary ledger.

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(6) The request to re-base a property fee shall not be allowed if the request and documentation are submitted more than two years after the property subject to the re-base has been acquired.

Property acquired before the two-year period shall not be considered in the request.

(f) This regulation shall take effect on and after January 1, 1999. (Authorized by and implementing K.S.A. 1997 Supp. 39-708c; effective May 1, 1985; amended May 1, 1988; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Oct. 28, 1991; amended Nov. 2, 1992; amended Jan. 3, 1994; amended Dec. 29, 1995; amended Jan. 1, 1997; amended Jan. 1, 1999.)

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30-10-26. Interest expense. (a) Only necessary and proper interest on working capital or personal property loans shall be an allowable expense. This shall not include interest on real estate or personal property covered by the real and personal property fee in accordance with K.A.R. 30-10-25.

(b) The interest expense shall be incurred on indebtedness established with either of the following:

(1) Lenders or lending organizations not related to the borrower; or

(2) partners, stockholders, home office organizations, or related parties, if the following conditions are met:

(A) The terms and conditions of payment of the loans shall resemble terms and conditions of an arm's-length transaction by a prudent borrower with a recognized, local lending institution with the capability of entering into a transaction of the required magnitude. A signed promissory note and loan amortization schedule shall be submitted with the cost report. Allowable interest expense shall be limited to the annual expense submitted on the loan amortization schedule, unless the loan principal is retired before the end of the amortization period.

(B) The provider shall demonstrate, to the satisfaction of the agency, a primary business purpose for the loan other than increasing the per diem rate.

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(C) The transaction shall be recognized and reported by all parties for federal income tax purposes.

(c) When the general fund of a nursing facility "borrows" from a donor-restricted fund, this interest expense shall be an allowable cost. In addition, if a nursing facility operated by members of a religious order borrows from the order, interest paid to the order shall be an allowable cost.

(d) The interest expense shall be reduced by the investment income from restricted or unrestricted idle funds or funded reserve accounts, except when that income is from gifts and grants, whether restricted or unrestricted, that are held in a separate account and not commingled with other funds. Income from the provider's qualified pension fund shall not be used to reduce interest expense.

(e) Interest earned on restricted or unrestricted reserve accounts of industrial revenue bonds or sinking fund accounts shall be offset against interest expense and limited to the interest expense on the related debt.

(f) Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost or the cost basis recognized for program purposes shall not be considered to be reasonably related to resident care.

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(g) This regulation shall take effect on and after January 1, 1999. (Authorized by and implementing K.S.A. 1997 Supp. 39-708c; effective May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended Jan. 1, 1999.)

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